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10/590,338

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110 7590 03/01/2010  
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EXAMINER

EVANS, BRYAN A

ART UNIT

PAPER NUMBER

3618

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/590,338	<b>Applicant(s)</b> KING, MATHEW	
	<b>Examiner</b> BRYAN A. EVANS	<b>Art Unit</b> 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-18 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 March 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-4, 6, 8, 11, 13-15, 17-18 rejected under 35 U.S.C. 102(b) as being anticipated by Derksen (5,271,707).**

3. Consider Claims 1-4, 6, 8 and 11 Derksen teaches a ground cover removal attachment for a vehicle (2) for moving a sheet ground cover while on the ground, comprising

- an arm (3, 4, 12, 13) with
  - a connection (1) at one end of the arm (3, 4, 12, 13) for mounting the arm (3, 4, 12, 13) to a vehicle (2) so that
  - the arm (3, 4, 12, 13) extends outwardly of one side of the vehicle (2), and
  - an outer end (7, 25, 27) of the arm (3, 4, 12, 13) shaped to engage the ground cover on one side of the ground cover to move the ground cover to the side of the vehicle (2) as the vehicle (2) moves alongside the ground cover.
- wherein the shaped outer end (7, 25, 27) of the comprises
  - one part (7) adapted to move beneath a side margin of the ground coverand

Art Unit: 3618

- another part (25, portion of 25 between 7 and 27) adapted to contact a side edge of the ground cover, as the vehicle (2) moves alongside the ground cover.
- wherein the part (7) adapted to move beneath the side margin of the ground cover has a lateral dimension in a direction generally away from the arm (3, 4, 12, 13) which is greater than a height dimension of the part (25, portion of 25 between 7 and 27) adapted to contact a side edge of the ground cover.
- wherein a further part of the shaped end (27) of the arm (3, 4, 12, 13) extends from the side edge contacting part (25) in a direction generally away from the arm (3, 4, 12, 13).
- wherein the connection (1) for mounting the arm (3, 4, 12, 13) to a vehicle (2) comprises a pivot connection (1) which
  - enables the arm (3, 4, 12, 13) to be pivoted (C3, L 11-15) to a non-operating position (Fig 7a, C5, L 56-58) relative to the vehicle (2),
    - in which the arm (3, 4, 12, 13) does not extend outwardly of the vehicle (2).
- including a brace member (30)
  - adapted to be connected to the arm (3, 4, 12, 13) intermediate of the length thereof at one end of the brace member (30 at 67) and
  - connectable to the vehicle (2) at another end of the brace member (30 at 66).

Art Unit: 3618

- including a pivot connection (66) at said another end of the brace member (30) for pivotally connecting the brace member (30) to a vehicle (2) (C4, L 36-39).
- wherein the arm (3, 4, 12, 13) is telescopically adjustable in length (via extension frames 12 and 13).

4. Consider Claims 13-15 and 17-18 Derksen teaches a ground cover removal arm (3, 4, 12, 13)

- for moving a ground cover with a vehicle (2) to which
- the arm (3, 4, 12, 13) is attached with
  - the arm (3, 4, 12, 13) extending outwardly of one side of the vehicle (2),
- the arm (3, 4, 12, 13) including
  - at one end a coupling (1) for mounting the arm (3, 4, 12, 13) to a vehicle (2),
  - an outer end (7, 25, 27) formed as a fork for lifting and folding a side of the ground cover as the vehicle (2) moves alongside the ground cover to one side of the ground cover, and
  - a brace member (30) adapted to extend between the arm (3, 4, 12, 13) and the vehicle (2) at a spaced mounting point (66) on the vehicle (2).
- A vehicle (2) with a ground cover removal arm (3, 4, 12, 13) according to claim 1 mounted thereto.
- A vehicle (2) and ground cover removal arm (3, 4, 12, 13) in combination wherein

Art Unit: 3618

- the arm (3, 4, 12, 13) is mounted to project forwardly (Fig 7c) relative to the direction of motion of the vehicle (2) in use, at an acute angle relative to a line transverse to the direction of motion of the vehicle (2) in use.
- A vehicle (2) with
  - an arm (3, 4, 12, 13) extending outwardly of the vehicle (2) to one side thereof beyond that side of the vehicle (2), and
  - capable of lifting and folding a side of a sheet ground cover to one side as the vehicle (2) moves alongside the ground cover,
  - the arm (3, 4, 12, 13) having spaced outwardly of the side of the vehicle (2) an operative part (7) for lifting and moving the ground cover.
- A vehicle (2) with an arm (3, 4, 12, 13) extending outwardly of the vehicle (2) to one side thereof
  - wherein the arm (3, 4, 12, 13) is mounted to project forwardly (Fig 7c) relative to the direction of motion of the vehicle (2) in use, at an acute angle relative to a line transverse to the direction of motion of the vehicle (2) in use.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claim 9 rejected under 35 U.S.C. 103(a) as being unpatentable over Derksen (5,271,707).**

Art Unit: 3618

7. Consider Claim 9 Derksen teaches all the features of the invention, as described above, but fails to show or teach wherein the connection (67) point of the brace member (30) to the arm (3, 4, 12, 13) is adjustable over a part of the length of the arm (3, 4, 12, 13).

8. Derksen does teach that the length of the brace member (30) is adjustable and therefore provides the same function of adjusting the angle of the arm relative to the vehicle as making the location of the connection point of the brace adjustable.

9. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the location of the connection point of the brace adjustable, as it is an obvious variation of making the length of the brace member adjustable.

10. **Claim 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Derksen (5,271,707) in view of Taylor (4,630,986).**

11. Consider Claim 5, Derksen teaches all the features of the invention, as described above, but fails to show or teach wherein the part of the shaped end of the arm adapted to move beneath a side margin of the ground cover includes a cranked outer end.

12. Taylor discloses wherein the part (55) of the shaped end (54, 55, 56) of the arm (46) adapted to move beneath a side margin of the ground cover includes a cranked outer end (55a).

13. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Derksen by further comprising a cranked outer end in order to facilitate engagement under the object to be moved (C 6, L 9-17)

Art Unit: 3618

**14. Claims 10, 16 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Derksen (5,271,707) in view of Dale (2003/0235490).**

15. Consider Claim 10, Derksen teaches all the features of the invention, as described above, but fails to show or teach of dimensions enabling the arm to be connected to a quad bike, at a forward part between the front wheels thereof with said another end of the brace arm connected to a side part of the quad bike between the wheels on one side of the quad bike.

16. Dale discloses of dimensions enabling the arm (120, fig 7) to be connected to a quad bike (See fig. 2), at a forward part (44) between the front wheels thereof with said another end of the brace arm (75) connected to a side part of the quad bike between the wheels on one side of the quad bike.

17. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Derksen by providing dimensions enabling the arm to be connected to a quad bike in order to provide an apparatus of versatile and simple construction (Pg. 1, Para 0014).

18. Consider Claim 16 and 20, Derksen as modified teaches all the features of the invention as described above and further teaches wherein the vehicle is a quad bike (See fig. 2).

**19. Claims 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Derksen (5,271,707) in view of Dimigen (4,525,417).**



Art Unit: 3618

20. Consider Claim 12, Derksen teaches all the features of the invention, as described above, but fails to show or teach a friction reducing cover or coating on the outer end (7, 25, 27) of the arm (3, 4, 12, 13).

21. Dimigen teaches a friction reducing cover or coating (5) on the outer end of the arm (1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Derksen by further comprising a friction reducing layer on the arm in order to reduce deterioration of the material and energy consumption (C 1, L 8-10).

### ***Response to Arguments***

22. Applicant's arguments filed February 10, 2010 have been fully considered but they are not persuasive.

23. In response to applicant's argument that Derksen's swing assembly is not a brace as claimed in claims 1 and 17. The examiner respectfully disagrees. Derksen's swing assembly is a brace which imparts rigidity and stability to the mechanism and is attached between two points on the arm or intermediate of the length of the arm.

24. In response to applicant's argument that the purpose of the brace is to hold the arm in a deployed position, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

***Conclusion***

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRYAN A. EVANS whose telephone number is (571)270-7022. The examiner can normally be reached on Monday through Thursday, 8:30 am - 5:30 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3618

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GLENN DAYOAN/  
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